

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

BANKRUPTCY PROCEEDING

JON CHRISTOPHER EVANS

CASE NO. 09-03763 NPO

JOINTLY ADMINISTERED WITH RELATED CASES

**TRUSTEE'S MOTION TO SELL ASSETS FREE AND CLEAR OF LIENS, INTEREST,
ENCUMBRANCES AND CLAIMS - TRACT 3A**

COMES NOW Derek A. Henderson, Trustee in the above-referenced bankruptcy cases, and files this his Motion to Sell Assets Free and Clear of Liens, Interests, Encumbrances and Claims - Tract 3A, and in support thereof would show unto the Court the following:

1.

The Court has jurisdiction over this matter pursuant to 28 U.S.C. §1334, 28 U.S.C. §157 and 11 U.S.C. §363. This matter is a core proceeding.

2.

On October 26, 2009, Jon Christopher Evans filed his petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Mississippi (Case No. 09-03763 NPO). Derek A. Henderson was appointed the Chapter 7 Trustee.

3.

Between October 26, 2009 and January 14, 2010, other related debtors filed Chapter 7 petitions. On December 21, 2009 an Order Granting Motion for Joint Administration was entered (Docket No. 161). On February 8, 2010, a Second Order Granting Motion for Joint Administration was entered (Docket No. 298). On April 6, 2010, a Third Order Granting Motion for Joint Administration was entered (Docket No. 513). These related jointly administered debtors include the following:

(Collectively referred to as “Related Cases”)

4.

On May 21, 2010, the Order entered its Order Granting Motion to Approve Title Resolution Agreement, Including (i) Conditional Sale of Property Free and Clear of Liens, Interests, Encumbrances and Claims, (ii) Recognition of Equitable Liens, (iii) Certain Distributions in Respect of Certain Unsecured Claims, (iv) Resolution of Certain Litigation, and (v) Other Relief (Docket No. 683) (“Settlement Order”). Pursuant to the Settlement Order, Mississippi Valley Title conditionally purchased certain tracts of property while allowing the Trustee an opportunity to market and sell the property. In the event the Trustee obtains an offer for the purchase of certain property, the Settlement Order provides for the Trustee to file a Motion for Authority to Sell and submit the property for auction.

5.

The Trustee has received an offer from Community Extended Care Centers, Inc. for the purchase of Tract 3A. The proposed purchase price is \$265,000.00. A copy of the Qualification Information Sheet and Commercial Purchase and Sale Agreement are attached hereto and marked as composite Exhibit “1”. A diagram of Tract 3 including Tract 3A is attached hereto and marked as Exhibit “2”.

6.

The Trustee requests the Court to authorize the sale of Tract 3A free and clear of liens, interests, encumbrances and claims (except for real property taxes).

7.

The Trustee requests the Court to approve the sale to Community Extended Care Centers, Inc. or other qualified buyer willing to pay more. The Trustee further requests the Court to find that Community Extended Care Centers, Inc. or another qualified buyer to be a good faith purchaser entitled

to the protections of 11 U.S.C. §363(m) of the United States Bankruptcy Code and that there has been no agreement of the kind specified in §363(n) of the United States Bankruptcy Code.

8.

Pursuant to the Settlement Order, Mississippi Valley Title is entitled to submit competing bids for the purchase of Tract 3A.

9.

JCE Construction, LLC is the record title holder on Tract 3A. Pursuant to the Settlement Order, Mississippi Valley Title previously paid \$225,144.67 for Tract 3A. Mississippi Valley Title is entitled to a lien against the sales proceeds in the amount of \$225,144.67. Mississippi Valley Title's lien shall attach to the proceeds at the time of the closing of the sale. Mississippi Valley Title shall be reimbursed \$225,144.67 at the time of the closing of the sale. Any and all proceeds in excess of the payment to Mississippi Valley Title shall be retained by the JCE Construction, LLC bankruptcy estate.

10.

On May 27, 2010, the Court entered its Order Approving Application to Employ Real Estate Broker and Approve Listing Agreement - Madison County Property(Docket No. 694), which employed Brian E. Estes, of The Estes Group, Inc. and Grubbs & Ellis/Sawyer Commercial on behalf of the estate as a real estate broker for the sale of real property in Madison County, Mississippi. Pursuant to the Court Order realtors are entitled to a ten percent (10%) commission. The Trustee requests authority to pay real estate commission at closing.

11.

The Trustee requests the Court to find that his motion is well taken and should be granted. The Trustee further requests the Court to authorize the Trustee to execute any and all documentation required to consummate the sale.

WHEREFORE, the Trustee requests to the Court to find that his Motion to Sell Assets Free and Clear of Liens, Interest, Encumbrances and Claims - Tract 3A is well taken and should be granted.

Respectfully submitted,

By: s/ Derek A. Henderson
DEREK A. HENDERSON, TRUSTEE &
ATTORNEY FOR THE TRUSTEE

CERTIFICATE OF SERVICE

I, DEREK A. HENDERSON, do hereby certify that I have this date served, via United States Mail, postage prepaid, a true and correct copy of the above and foregoing Motion to Sell Assets Free and Clear of Liens, Interest, Encumbrances and Claims - Tract 3A to all creditors and parties in interest listed on the mailing matrix and the following:

Community Extended Care Centers, Inc.
c/o Hibernia Williams
763 Avery Blvd. North
Ridgeland, MS 39157

Brian E. Estes
The Estes Group, Inc.
PO Box 12486
Jackson, MS 39236

This the 17th day of August, 2010.

s/ Derek A. Henderson
DEREK A. HENDERSON

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